Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 13659
Docket No. 13546
01-2-00-2-26

The Second Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
( (System Council #16)
( (Burlington Northern Santa Fe Railway

STATEMENT OF CLAIM:

"1. That in violation of the current Agreement, Rule 35 in particular, Electrician Eng was unjustly suspended for a period of ten days by the Burlington Northern/Santa Fe Railroad Company following an investigation held on September 23, 1997.

2. That the investigation held on September 23, 1997, was not a fair and impartial investigation under the terms required by the rules of the current Agreement and that the issuance of the ten-day suspension was unjust, excessive and unwarranted.

3. That accordingly, the Burlington Northern/Santa Fe Railroad Company be directed to make Electrician Mark Eng whole for all lost wages, rights and benefits which were adversely affected by this suspension and further that all record of this matter be removed from his personal record."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

As a result of an Investigation, the Claimant, an Electrician, received a ten-day suspension stemming from a confrontation with another employee, Electrician Joyce Blocker.

The facts in this case are set forth in Second Division Award 13658. Essentially, the Claimant and Blocker were involved in an altercation on August 26, 1997 when they had words as a result of Blocker's contention that the Claimant was not properly performing his duties. The Claimant stepped close to Blocker and raised his hand in her face and Blocker responded by telling the Claimant that if he were a man they could settle the matter.

As we found in Second Division Award 13658, substantial evidence shows that the conduct of the Claimant and Blocker was an "altercation" in violation of Rule S-28.7.

With respect to the amount of discipline imposed, under the circumstances, it was not arbitrary for the Carrier to impose a ten-day suspension to the Claimant. As we found in Second Division Award 13658, the Claimant and Blocker should receive the same amount of discipline for the misconduct. In that Award, we reduced Blocker's 20 day suspension and probation to a ten-day suspension. The Claimant and Blocker now have both received the same discipline.

## AWARD

Claim denied.

## ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 11th day of December, 2001.